

The Texas Department of Agriculture (the Department) proposes new Subchapter U, Title 4, Part 1, §§19.400 - 19.408, to establish an emergency quarantine to contain the recently discovered infestation of a strain of citrus canker in the Rancho Viejo area near Brownsville, Texas. The term "citrus canker" is historically referred to as a plant disease with a group of strains or pathotypes of the bacterium *Xanthomonas axonopodis* pv. *citri*. The most damaging is the Asiatic or A-strain, which infects most citrus species and their hybrids, especially grapefruit, sour orange, Mexican or key lime, lemon, tangelo, tangerine, plus *Poncirus trifoliata* and some other non-citrus rutaceous hosts. The best available scientific evidence indicates that the unique citrus canker strain was detected on October 16, 2015. Since then, it has been found on young leaves and twigs of Mexican lime in the Rancho Viejo area. It has a restricted host range of limes and lemons. As additional evidence becomes available and more hosts are added, the Department may expand the scope of the quarantine accordingly. The citrus canker strain was experimentally tested for host range by scientists at Texas A&M Kingsville Citrus Center (TAMUK-CC) and it was found to readily infect Mexican lime and Kaffir lime, while Ponderosa lemon, Persian lime and Meyer lemon were observed to show only a few lesions. Mexican lime, Kaffir lime and Ponderosa lemon were found infested on dooryard trees during the survey and sampling. The varieties of grapefruit, sweet orange and sour orange commonly grown in the Rio Grande Valley showed no infection. The studies by TAMUK-CC seem to suggest that this strain is probably not the Asiatic or A strain, but is likely the Wellington or A^w strain that has only previously been recorded in Florida and has a very restricted host range amongst limes and lemons. The current infestation is the first known incidence of citrus canker in Texas after its eradication in 1943.

Citrus canker is harmless to humans and animals. However, the newly detected infestation presents a serious risk to lime and lemon trees in the Lower Rio Grande Valley (LRGV). Texas does not have commercial production of lime or lemon fruit; however, homeowners and nurseries in the LRGV produce lime and lemon trees. The disease produces leaf-spotting, fruit rind-blemishing, defoliation, shoot dieback, fruit drop, and it can expose the interior of fruit to secondary infection by decay organisms. The disease does not travel through the tree to become systemic. The marketability of symptomatic fresh fruit is negatively impacted. Lesions on leaves are raised or 'pustular' on both leaf surfaces, particularly on the lower surface. Leaf pustules develop a yellow halo with water-soaked margins, becoming corky and crateriform with a raised margin and sunken center. Leaf lesions may appear within 14 days following inoculation and can attain 2-10 mm diameter on a susceptible host. In the field, symptoms may take several months to appear, and lower temperatures may increase the latency of the disease. The rod shaped flagellate citrus canker bacteria can enter young leaves through stomata, wounds on leaves, young twigs or shoots. The damage caused by citrus leaf miner larvae (*Phyllocnistis citrella*) can provide access for infection and canker was found associated with leaf minor damage on Ponderosa lime. Citrus canker bacterium can stay viable in old lesions on leaves, branches and other plant surfaces for several months, including in those dropped on the ground. *X. axonopodis* pv. *citri* can spread by wind, splashing water, movement of infected plant material or mechanical contamination. The pathogen flourishes under warm moist conditions and requires a host to survive in a natural environment.

Lime and lemon nursery and dooryard trees in the area are in peril without the emergency quarantine, which provides necessary steps to prevent the spread of this devastating plant disease and to undertake actions to prevent further spread of the disease. From October 16 - December 1,

2015, 8 samples (5 Mexican lime, 1 kaffir lime and 1 Ponderosa lemon) were confirmed positive for citrus canker and 36 were found negative. Over 3,000 residential properties have been surveyed; commercial grapefruit and orange groves within and beyond the quarantined area showed no symptomatic trees.

The Department believes that establishment of an emergency quarantine is both necessary and appropriate in order to effectively combat and prevent the spread of citrus canker to non-infected areas, including to nurseries, groves and residential areas. A one-half mile radius area will be quarantined around each positive site. All quarantine areas overlap and coalesce into a total 55 square mile contiguous area. There is no commercial citrus in the quarantined area. For practical purposes borders of the quarantined area will be set using the closest property lines, roads, canals or river and posted on the Department's website: www.texasagriculture.gov. The movement, distribution or sale of citrus plants within or out of the quarantined area will be prohibited. Articles or equipment coming in direct contact with infected plant material must be decontaminated prior to moving out of the quarantined area using any approved decontaminant. The citrus fruits sold, distributed or moved to packing houses for processing must be moved under the conditions of a compliance agreement. Landscapers and mowers servicing the quarantined area must come under compliance agreement with TDA, and decontaminate equipment by steam cleaning or washing prior to moving out of the quarantined area. The Department has recommended and encourages the removal of infected tree and plant material and disposal by burning or bagging and burying at least 2 feet deep at the municipal landfill to manage the disease. The Department urges residents in and visitors to the quarantined area to be aware of the disease and help combat it by contacting the Department, Texas A&M University AgriLife Extension, TAMUK-CC, United States Department of Agriculture, or Texas Citrus Pest and Disease Management Corporation for more information.

New §19.400 defines the quarantined pest. New §19.401 describes the areas subject to quarantine. New §19.402 provides quarantined articles. New §19.403 provides restrictions on the movement of regulated articles. New §19.404 provides on-going pest management. New §19.405 contains restrictions and requirements related to fruit harvest. New §19.406 provides consequences for failure to comply with quarantine restrictions. New §19.407 provides an appeal process for certain agency actions taken against a person for failure to comply with quarantine restrictions or requirements. New §19.408 provides procedures for handling discrepancies or other inconsistencies in textual descriptions in this subchapter with graphic representations.

The new sections are adopted on an emergency basis under the Texas Agriculture Code, §71.004, which authorizes the Department to establish emergency quarantines; §71.007, which authorizes the Department to adopt rules as necessary to protect agricultural and horticultural interests, including rules to provide for specific treatment of a grove or orchard or of infested or infected plants, plant products, or substances; §12.020, which authorizes the Department to assess administrative penalties for violations of Chapter 71 of the Texas Agriculture Code; and Texas Government Code, §2001.034, which provides for the adoption of administrative rules on an emergency basis, without notice and comment.

The code affected by the proposal is the Texas Agriculture Code, Chapters 12 and 71.

<rule>

NEW SUBCHAPTER U. CITRUS CANCER QUARANTINE

§19.400. Quarantined Pest.

The quarantined pest is citrus canker, a serious plant disease that is not widely distributed in this state. The disease is caused by the bacterial pathogen *Xanthomonas axonopodis* pv. *citri*.

§19.401. Quarantined Areas.

Quarantined areas described on the Texas Department of Agriculture's (Department) Citrus Canker Quarantine under this subchapter, and as found at the Department's webpage at www.TexasAgriculture.gov. A map of the quarantined area is also available on the Department's website.

(1) On the basis of new or revised information, the Department may declare, augment, diminish, fuse, eliminate, rename or otherwise modify quarantined areas.

(2) Designation or modification of a quarantined area is effective upon the posting of the notification of the quarantined area on the department's webpage on Citrus Canker Quarantine.

§19.402. Quarantined Articles.

Quarantined articles are the quarantined pest, and all plants and plant parts, including fruit and seeds listed in 7 CFR §301.75-3. All soil and potting media associated with, and tools, equipment, appliances, machinery, etc., used for handling infected or contaminated material are quarantined articles.

§19.403. Requirements and Restrictions for Movement of Regulated Articles.

(a) Movement of regulated plants within, into or from the quarantined area for sale, distribution or planting is prohibited.

(b) Regulated fruits must be free of leaves, stems and debris if offered for sale or distribution.

Fruit can only move out of the quarantined area for sale, distribution or processing or packing at a packing house under a compliance agreement with the Department or the USDA.

(c) Quarantined articles intended for movement, distribution or sale through or out of the quarantined area or between noncontiguous quarantined areas for intrastate or interstate movement shall conform to the restrictions and requirements of 7 CFR §301.75 Subpart-Citrus Canker, including the corresponding restrictions and requirements that may be described in 7 CFR §301.75 as applying to intrastate or interstate movement, distribution or sale.

(d) Landscapers and mowers servicing the quarantined area must come under compliance agreement with the Department or USDA, and decontaminate tools, appliances and equipment by steam cleaning or washing with an approved disinfectant prior to moving out of the quarantined area.

(e) Infected plants, plant parts or quarantined articles that are completely covered can move out of the quarantined area for burning or burial in the landfill under a compliance agreement or permit issued by the Department.

§19.404. Ongoing Pest Management.

At all times, all the citrus plants for sale or distribution must be inspected regularly for symptoms of citrus canker. If any regulated article exhibits symptoms of citrus canker:

(1) the regulated article must be held at the location from sale or distribution, pending inspection, sampling and testing by the Department; immediately notify the regional Department office; and

(2) plants or plant parts that test positive for citrus canker shall be destroyed and disposed of under Department supervision.

§19.405. Citrus Fruit Harvest.

(a) Regulated fruit from a quarantined area intended for noncommercial or commercial movement, sale or distribution outside of the quarantined area, shall not be moved from the production site, except under a compliance agreement with the Department or USDA.

(b) Disinfecting of regulated fruit:

(1) Disinfecting of regulated fruit shall include chemical treatment of regulated fruit, according to D301.75-11(a-1) or (a-2) or (a-3) of the USDA Treatment Manual.

(2) Personnel using a treatment prescribed under subparagraph (1) of this paragraph must clean their hands according to requirements in D301.75-11 of the USDA Treatment Manual.

(3) Sodium hypochlorite, peroxyacetic acid, and sodium 0-phenyl phenate (SOPP) must be applied for disinfecting hands in accordance with label directions.

§19.406. Consequences for Failure to Comply with Quarantine Requirements or Restrictions.

(a) A person who fails to comply with quarantine restrictions or requirements or a Department order relating to the quarantine is subject to administrative or civil penalties up to \$10,000 per day for any violation of the order and to the assessment of costs for any treatment or destruction that must be performed by the Department in the absence of such compliance.

(b) The Department is authorized to seize and treat or destroy or order to be treated or destroyed, any quarantined article:

(1) that is found to be infested with the quarantined pest; or, regardless of whether infected or not,

(2) that is transported within, out of, or through the quarantined area in violation of this subchapter.

(c) Regulated articles seized pursuant to any Department order shall be destroyed at the owner's expense under the supervision of a Department inspector.

§19.407. Appeal of Department Action Taken for Failure to Comply with Quarantine Restrictions.

An order under the quarantine may be appealed according to procedures set forth in the Texas Agriculture Code, §71.010.

§19.408. Conflicts between Graphical Representations and Textual Descriptions; Other Inconsistencies.

(a) In the event that discrepancies exist between graphical representations and textual descriptions in this subchapter, the representation or description creating the larger geographical area or more stringent requirements regarding the handling or movement of quarantined articles shall control.

(b) The textual description of the plant disease shall control over any graphical representation of the same.

(c) Where otherwise clear as to intent, the mistyping of a scientific or common name in this subchapter shall not be grounds for exemption of compliance with the requirements of this subchapter.